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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,432	10/01/2003	Ananth Madhavan	2566-210	5660

6449            7590            01/19/2007  
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EXAMINER	
AKINTOLA, OLABODE	
ART UNIT	PAPER NUMBER

3691

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	01/19/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 01/19/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/674,432	MADHAVAN ET AL.	
	Examiner Olabode Akintola	Art Unit 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 14 August 2006.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-51 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-51 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>4/6/2004</u>	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 6-8, 12-13, 25-27, 40-41 and 47-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noser et al (USPAP 20030225660) ("Noser").

Re claims 1, 6-8, 12-13, 19-21, 25-27, 40-41 and 47-51: Noser teaches a method for creating a database, said method comprising: collecting security transaction data for a pre-selected period of time (section 0007), for a plurality of investment investors (section 0007), said transaction data including identity of securities being traded, transaction order sizes, execution prices and execution times (sections 0085-0086); grouping said transaction data into a plurality of orders

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(section 0007); calculating a plurality of cost benchmarks for each of said plurality of orders; estimating transaction costs for each investment institution relative to said cost benchmarks; and storing said data (section 0058). Noser does not explicitly teach institutional investors. However, Noser teaches agents. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Noser's agents to include institutional investors in order to measure the cost of trading against a common benchmark.

Claims 2-5, 9-11 and 42-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noser as applied to claim 1 above, in view of Efron (Regression percentile using asymmetric squared error loss, 1991) (Efron)

Re claims 2-5, 9-11 and 42-46: Noser does not explicitly teach the use regression analysis using percentiles. Efron teaches regression percentiles (see entire document). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Noser to use regression analysis on the variables (transaction costs). One would have been motivated to do this because regression analysis is well known in the statistical art for evaluating the relationship between one variable (termed the dependent variable) and one or more other variables (termed the independent variables).

Claims 14, 19-21, 25-27, 32-34 and 38-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noser as applied to claim 1 above, in view of Bettis et al (USPN 7016872) (Bettis).

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Re claims 14, 19-21, 25-27, 32-34 and 38-39: Noser does not explicitly teach ranking a first investment institution of said plurality of institutional investors against said plurality of investment institutions for at least one of a number of factors. Bettis teaches ranking a first investment institution of said plurality of institutional investors against said plurality of investment institutions for at least one of a number of factors (Abstract). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Noser to include this step as taught by Bettis. One would have motivated to do so in order to evaluate the performance of the investors/traders.

Claims 15-18, 22-24, 28-31, 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noser in view of Bettis as applied to claim 14 above, and further in view of Efron.

Re claims 15-18, 22-24, 28-31 and 35-37: See claims 2-5 analyses, supra.

### *Conclusion*

**Examiner Note:** It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olabode Akintola whose telephone number is 571-272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OA



HANI M. KAZIMI  
PRIMARY EXAMINER